## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

In re: HIGHLAND CAPITAL	§ 8
MANAGEMENT, L.P.,	\$ §
Debtor,	<pre> § § CIVIL ACTION NO. 3:22-CV-2051-B</pre>
CLO HOLDCO, LTD.,	§
Appellant,	\$ \$ \$
v.	§
MARC KIRSHNER,	\$ \$ \$
Appellee.	§

## APPELLANT CLO HOLDCO, LTD.'S STATEMENT OF ISSUES PRESENTED ON APPEAL

Appellant CLO HoldCo, Ltd. ("CLO HoldCo"), pursuant to Rule 6(b)(2)(B) of the Federal Rules of Appellate Procedure, hereby files this *Statement of Issues Presented on Appeal* ("Statement of Issues"):

- 1. Whether the District Court erred as a matter of law by affirming the Bankruptcy Court's denial of CLO HoldCo's Motion to Ratify Second Amendment to Proof of Claim [Claim No. 198] and Response to Objection to Claim (the "Motion to Ratify")?
- 2. Whether the District Court erred in finding that the Bankruptcy Court properly determined that in order to amend a proof of claim post-confirmation a movant must show "compelling circumstances"?

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3. Whether the District Court erred in finding that the Bankruptcy Court did not abuse its discretion in determining that the theory of recovery set forth in the Motion to

Ratify was frivolous?

4. Whether the District Court erred in finding that granting the Motion to Ratify would

prejudice the estate such that the Motion to Ratify should be denied?

5. Whether the District Court correctly applied an abuse of discretion standard of

review as opposed to a de novo standard of review to the Bankruptcy Court's

determination that the Motion to Ratify should be denied because the proposed

amendment would be futile?

With respect to the designation of the record, the Electronic Record on Appeal for USCA5

23-10660 (the "eROA") was certified on July 21, 2023. Appellant is satisfied that everything it

would have designated in accordance with Rule 6(b)(2)(B) has already been certified and made

available to the Circuit Clerk. However, and out of an abundance of caution, the Appellant

designates everything included within and certified as the eROA.

Dated: August 1, 2023

Respectfully submitted,

/s/ Louis M. Phillips

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## ATTORNEYS FOR CLO HOLDCO, LIMITED

## **CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that a true and correct copy of the foregoing document was served via ECF notification on August 1, 2023, on all parties receiving electronic notification.

/s/ Louis M. Phillips
Louis M. Phillips

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